

Proposed Rule Amendment:

§344.1. Administrative Fines and Penalties.

Summary of Amendment: - the amendment is proposed to update the Schedule of Sanctions graphic by removing the sanctions for not registering a physical therapy facility and practicing in an unregistered physical therapy facility pursuant to the repeal of physical therapy facility registration and annual renewal pursuant to SB 317 during the 85th Legislative Session; and to add a range of fines that can be imposed per violation to each category of disciplinary action.

Rulemaking Process:

- Proposed by the PT Board at the July 24, 2020 meeting.
- Proposed Rulemaking Memorandum sent to the Office of the Governor on July 24, 2020 for review.
- Approved by the Executive Council of Physical Therapy & Occupational Therapy Examiners (ECPTOTE) at the August 7, 2020 meeting.
- Proposed rules amendment will be published in an upcoming issue of the Texas Register once approved by the Office of the Governor.

§344.1. Administrative Fines and Penalties.

(a) – (b) (No change.)

(c) The Board shall utilize the following Schedule of Sanctions in all disciplinary matters.

Figure: 1 TAC §344.1

~~[Figure: 1 TAC §344.4]~~

(d)- (e) (No change.)

Figure: 1 TAC §344.1**Schedule of Sanctions**

Disciplinary Violations	PT Act/Rule	Minimum Discipline	Intermediate Discipline	Maximum Discipline	Remarks
Failing to document physical therapy services, inaccurately recording, falsifying, or altering patient/client records	Sec. 453.351(a)(7) §322.4(b)(1)	15-30 day license suspension +up to \$100 per violation [+investigation costs]	45-90 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Obtaining or attempting to obtain or deliver medications through means of misrepresentation, fraud, forgery, deception, and/or subterfuge	Sec. 453.351(a)(7) §322.4(b)(2)	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failing to supervise and maintain the supervision of supportive personnel, licensed or unlicensed, in compliance with the Act and rule requirements	Sec. 453.351(a)(7)(10) §322.4(b)(3)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Aiding, abetting, authorizing, condoning, or allowing the practice of physical therapy by any person not licensed to practice physical therapy	Sec. 453.351(a)(7) §322.4(b)(4)	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Permitting another person to use an individual's physical therapist's or physical therapist assistant's license for any purpose	Sec. 453.351(a)(7) §322.4(b)(5)	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failing to cooperate with the agency by not furnishing papers or documents requested or by not responding to subpoenas issued by the agency	Sec. 453.351(a)(7) §322.4(b)(6)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.

Schedule of Sanctions

Disciplinary Violations	PT Act/Rule	Minimum Discipline	Intermediate Discipline	Maximum Discipline	Remarks
				conditions are met or indefinitely))	
Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts before the agency or the board, or by the use of threats or harassment against any patient/client or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action	Sec. 453.351(a)(7) §322.4(b)(7)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely))	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Engaging in sexual contact with a patient/client as the result of the patient/client relationship	Sec. 453.351(a)(7) §322.4(b)(8)	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely))	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Practicing or having practiced with an expired temporary or permanent license	Sec. 453.351(a)(7) §322.4(b)(9)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely))	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failing to conform to the minimal standards of acceptable prevailing practice, regardless of whether or not actual injury to any person was sustained, including, but not limited to: (A) failing to assess and evaluate a patient's/client's status; (B) performing or attempting to perform techniques or procedures or both in which the physical therapist or physical therapist assistant is untrained by education or experience; (C) delegating physical therapy functions or responsibilities to an	Sec. 453.351(a)(7) §322.4(b)(10)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely))	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.

Schedule of Sanctions

Disciplinary Violations	PT Act/Rule	Minimum Discipline	Intermediate Discipline	Maximum Discipline	Remarks
individual lacking the ability or knowledge to perform the function or responsibility in question; or (D) causing, permitting, or allowing physical or emotional injury or impairment of dignity or safety to the patient/client					
Intentionally or knowingly offering to pay or agreeing to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for receiving or soliciting patients or patronage, regardless of source of reimbursement, unless said business arrangement or payments practice is acceptable under 42 United States Code §1320a-7b(b) or its regulations	Sec. 453.351(a)(7) §322.4(b)(11)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Advertising in a manner which is false, misleading, or deceptive	Sec. 453.351(a)(7) §322.4(b)(12)	Letter to cease and desist; if licensed, 30-60 hours community service +up to \$100 per violation [+investigation costs]	If licensed, 30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Knowingly falsifying and/or forging a referring practitioner's referral for physical therapy	Sec. 453.351(a)(7) §322.4(b)(13)	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
[Failing to register a physical therapy facility which is not exempt or failing to renew the registration of a physical therapy facility which is not exempt]	[Sec. 453.351(a)(7) §322.4(b)(14)]	[Letter to cease and desist; if licensed, letter of reprimand to the TIC, all PTs, all PTAs, and	[30-60 day facility suspension +investigative costs]	[Revocation or Surrender of license +investigative costs]	[Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation,

Schedule of Sanctions

Disciplinary Violations	PT Act/Rule	Minimum Discipline	Intermediate Discipline	Maximum Discipline	Remarks
		facility +investigative costs]		(until conditions are met or indefinitely)]	repeat of violation, or development.]
[Practicing in an unregistered physical therapy facility which is not exempt]	[Sec. 453.351(a)(7) §322.4(b)(15)]	[Letter to cease and desist; if licensed, letter of reprimand to the TIC, all PTs, all PTAs, and facility +investigative costs]	[30-60 hours community service; 30-60 day license suspension +investigative costs]	[Revocation or Surrender of license +investigative costs (until conditions are met or indefinitely)]	[Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.]
Failing to notify the board of any conduct by another licensee which reasonably appears to be a violation of the Practice Act and rules, or aids or causes another person, directly or indirectly, to violate the Practice Act or rules of the board	Sec. 453.351(a)(7) §322.4(b)(14) [16]	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Abandoning or neglecting a patient under current care without making reasonable arrangements or the continuation of such care	Sec. 453.351(a)(7) §322.4(b)(15) [17]	30 days suspension [30-60 hours community service] +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failing to maintain the confidentiality of all verbal, written, electronic, augmentative, and nonverbal communication, including compliance with HIPAA regulations	Sec. 453.351(a)(7) §322.4(b)(16) [18]	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failed CCU Audit	§341.2(g)	30-60 hours community service + CE hours completed +up to \$100 per violation [+investigation costs]	30-60 day license suspension + CE hours completed +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failed to properly renew license	§341.2(c)(d)	30-60 hours community service + CE hours completed	30-60 day license suspension + CE hours completed	Revocation or Surrender of license	Alternative disciplinary decisions or pursuing other courses of action may depend on the

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		+up to \$100 per violation [+investigation costs]	+up to \$150 per violation [+investigation costs]	+up to \$200 per violation [(until conditions are met or indefinitely)]	nature of the situation, repeat of violation, or development.
Except as provided by Section 453.301 or 453.302, provided physical therapy to a person without a referral from a referring practitioner	Sec. 453.351 (a)(1)	30-60 hours community service +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Used drugs or intoxicating liquors to an extent that affects the license holder's or applicant's professional competence	Sec. 453.351(a)(2) §343.5	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Failure to report felony conviction; been convicted of a felony, including a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere, in this state or in any other state or nation	Sec. 453.351 (a)(3) §343.6(a)(1) §343.9	30 day license suspension +up to \$100 per violation [+investigation costs]	2-6 month license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Obtained or attempted to obtain a license by fraud or deception	Sec. 453.351 (a)(4) §343.6(a)(1)	Letter to cease and desist; if licensed, 60-90 day license suspension +up to \$100 per violation [+investigation costs]	2-6 month license suspension with restricted practice +up to \$150 per violation [+investigation costs]; referral for criminal investigative entity	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Been grossly negligent in the practice of physical therapy or in acting as a physical therapist assistant	Sec. 453.351 (a)(5) §343.7	30-60 day license suspension +up to \$100 per violation [+investigation costs]	30-60 day license suspension with restricted practice	Revocation or Surrender of license +up to \$200 per violation [(until	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.

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			+up to \$150 per violation [+investigation costs]	conditions are met or indefinitely)	
Been found to be mentally incompetent by a court	Sec. 453.351 (a)(6) §343.8	30-60 day license suspension with provisional restricted practice +up to \$100 per violation [+investigation costs]	6-12 month license suspension with provisional restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Having a license to practice physical therapy or a license to practice another health care profession revoked or suspended or had other disciplinary action taken against him or had his/her application for license refused, revoked, or suspended by the proper licensing authority of another state, territory, or nation	Sec. 453.351(a)(8)(9) §343.6(a)(2)	30 day license suspension +up to \$100 per violation [+investigation costs]	2-6 month license suspension with restricted practice +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.
Noncompliance professionally and/or ethically in conduct not otherwise specified	APTA guide for professional conduct	30-60 [8-30] hours community service; complete additional course in ethics +up to \$100 per violation [+investigation costs]	30-60 day license suspension +up to \$150 per violation [+investigation costs]	Revocation or Surrender of license +up to \$200 per violation [(until conditions are met or indefinitely)]	Alternative disciplinary decisions or pursuing other courses of action may depend on the nature of the situation, repeat of violation, or development.